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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman

JIM IRVIN
Commissioner

MARC SPITZER
Commissioner

Arizona Corporation Commission

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OCT 08 2002

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AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION) DOCKET NO. W-01427A-01-0487
OF LITCHFIELD PARK SERVICE) DOCKET NO. WS-01428A-01-0487
COMPANY FOR AN INCREASE IN ITS)
WATER AND WASTEWATER RATES FOR) STAFF'S CLOSING BRIEF
CUSTOMERS WITHIN MARICOPA)
COUNTY, ARIZONA.)
)
)
)

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission") hereby files its closing brief in the above-captioned matter. In this brief, Staff will address why the settlement agreement contains just and reasonable rates and why this Commission should not accept the arguments advocated by the City of Litchfield Park ("City"). Staff believes the settlement agreement reached between itself, Litchfield Park Service Company ("LPSCO"), the Residential Utility Consumer Office ("RUCO") and Pebble Creek Properties ("Pebble Creek") is in the public interest. Staff would recommend that the Commission adopt the settlement agreement here.

The City's entire case is based upon its assumption that excess capacity exists on LPSCO's system and that LPSCO financed plant in a way that unfairly burdens City rate payers. In essence, the City's case attacks the rate base numbers used in the settlement agreement. What the City fails to recognize is that Staff made an independent determination of what was used and useful for both the water and sewer portions of plant in rate base. Those numbers are reflected in the settlement agreement. Because plant in rate base is used and useful and is presently serving customers, no excess capacity exists. The rates that result from the rate base figures in the settlement agreement are just and reasonable. The City's thesis is a house of cards already fallen.

1 **THE RATE BASE IN THE SETTLEMENT AGREEMENT FOR BOTH THE WATER AND**
2 **SEWER PORTIONS ARE USED AND USEFUL.**

3 A Company is entitled to fair value on its property and that figure must be used to determine
4 rate base. Simms v. Round Valley Light & Power Co., 80 Ariz. 145, 155, 294 P.2d 378, 385 (1956).

5 While the Commission has broad discretion to determine how to determine the fair value rate base,
6 such a determination could be overturned on appeal if arbitrary. Arizona Corp. Comm'n v. Arizona
7 Public Serv. Co., 113 Ariz. 368, 370-71, 55 P.2d 326, 328-29 (1976). Arizona is a historical test-year
8 state, where plant used and useful during the test year is appropriately included into the rate base
9 figure. By trying to exclude plant that is built and is serving customers during the test year that Staff
10 found used and useful, the City seeks to violate this basic premise. The City made no determination
11 of what was used and useful; rather, their whole conclusion is based on inputting estimates into a
12 formula and applying that across the board to rate base. That leads to an inaccurate and unreliable
13 computation.

14 Marlin Scott Jr., the engineer for Staff, surveyed the plant and premises of LPSCO on
15 November 20, 2001. Based upon his analysis, Mr. Scott generated engineering reports attached to his
16 testimony that was admitted as part of Exhibit S-4¹. Mr. Brian Bozzo, the Staff analyst for the Water
17 Division of LPSCO, conducted an audit, adjusted rate base and expenses, and made a determination
18 of rate base, including water plant in service during the test year, to be \$5,909,975 in his surebuttal
19 testimony. (See Surebuttal Testimony of Brian K. Bozzo at 1)². This is the exact same rate base
20 figure for the Water Division in the settlement agreement. Mr. Roger Nash, the Staff analyst for the
21 Sewer Division of LPSCO, performed a similar analysis of the sewer division. In his surebuttal
22 testimony, Mr. Nash made the determination of rate base, including sewer plant in service during the
23 test year, to be \$9,177,372. (See Surebuttal Testimony of Roger D. Nash at 2; Schedules RDN-3, -
24 4). The settlement agreement reflects a sewer rate base of \$8,691,821. Both Mr. Bozzo's and Mr.
25 Nash's testimonies were admitted in the prior hearing on April 3, 2002 as Exhibits S-1 and S-2
26 respectively, along with Mr. Scott's testimonies. (See T.R. at 65). Clearly, the rate base figures in
27

28 ¹ See Exhibits MSJ-1 and MSJ-2 to Mr. Scott's Direct Testimony admitted as part of Exhibit S-4.

² Mr. Bozzo made this adjustment to correct an omission to rate base made in his direct testimony. Id.

1 in the settlement agreement accurately reflect used and useful plant for both water and sewer,
2 directly rebuffing the assertion by the City that excess capacity exists.

3 What is used and useful can be easily shown using three exhibits introduced as part of the
4 hearing. Exhibit City-11, admitted during these proceedings, is the Direct Testimony of John A.
5 Chelus, the engineer for Staff on LPSCO's last rate case. Attached as part of that exhibit is Mr.
6 Chelus' engineering report. Pages four through five of that report for LPSCO's last rate case,
7 attached here as Appendix A, identifies used and useful plant presently serving customers during the
8 test year of 1996. Attached as Appendix B are pages three through five of Mr. Scott's engineering
9 report for LPSCO's water division, admitted as part of Exhibit S-4. In short, Staff identified
10 substantial additions to the transmission and distribution system from 1996 to 2000, which are now
11 used and useful and presently serve customers. LPSCO's Exhibit A-14 illustrates the transmission
12 and distribution additions made to LPSCO's water division from the last rate case to this rate case to
13 serve existing customers. LPSCO's Exhibit A-14 correlates with the additions Staff included as part
14 of used and useful plant from the last rate case to this rate case. (See also T.R. at 345-49). These
15 additions were made to improve the efficiency and reliability of the water system, such as improving
16 and maintaining water pressure and providing fireflow protection and balancing of system water
17 pressure. (T.R. at 349-50). Mr. Dave Ellis for LPSCO testified about how many of the projects that
18 were added to rate base were to improve the reliability of the system by improving the water
19 pressure on the system and ensuring that there was more than just a single source of supply. (T.R. at
20 298-305). From an engineering perspective, those are justifications for designating plant used and
21 useful, which is what Staff found in this case, and is what is accurately reflected in the rate base
22 figures in the settlement agreement.

23 Mr. Cicchetti tries to delineate an artificial distinction between present and future customers
24 by arguing that future customers are the cost causers. Mr. Cicchetti's testimony ignores the
25 testimonies of both Staff and the Company. On cross-examination, Mr. Cicchetti admitted that
26 neither he nor anybody in his firm conducted an on-site inspection. (T.R. at 137). Mr. Cicchetti also
27 made the faulty assumption that Well No. 1A was included in the rate base figure in the settlement
28 agreement when, in fact, it was not. (T.R. at 144-46). Mr. Cicchetti assumes that excess capacity

1 exists without pinpointing which plant facilities have excess capacity. His arbitrary assertion directly
2 conflicts with Staff's analysis, which is the result of an actual inspection and actual identification of
3 plant that is used and useful. But the City's witness could not state what is used and useful from an
4 engineering perspective. (T.R. at 163). While Staff incorporates its engineering analysis, the City
5 ignores Staff's analysis and makes blanket assumptions without any engineering analysis. The City
6 conducted no engineering analysis. Unlike Staff, Mr. Cicchetti ignores vital aspects like fireflow
7 protection. (T.R. at 163-64). Furthermore, Mr. Dave Ellis, LPSCO's plant manager, testifies that a
8 lot of plant improvements involved replacing parts and equipment caused by wear and tear on the
9 system over an extended period of time. (See Post Settlement Agreement Proceedings Rebuttal
10 Testimony of David W. Ellis at 4-5, 6). In short, Mr. Cicchetti's testimony is unreliable and faulty
11 because it completely ignores components of a system which does serve customers and which is in
12 the public interest to provide additional services like fireflow protection. The rate base figures in the
13 settlement agreement are reasonable because they reflect used and useful plant in service during the
14 test year that presently serves customers.

15 The City's whole case rests on the assumption that excess capacity exists in the plant
16 included as part of rate base in the settlement agreement. But the City's assertion is directly rebutted
17 by Staff's independent engineering analysis. Staff found plant included in the rate base figures in
18 the settlement agreement to be used and useful. No excess capacity exists and the City's
19 methodology to deal with excess capacity is immaterial and inappropriate.

20 **NO EVIDENCE OF AN IMPROPER RELATIONSHIP BETWEEN SUNCOR AND LPSCO**
21 **EXISTS.**

22 The Commission has stated that there must always be a concern over rates when a developer
23 owns a utility. However, in this case, there has been no evidence found that Suncor's ownership of
24 LPSCO has resulted in unjust and unreasonable rates. The Company finances its plant in a manner
25 that is neither unusual nor inappropriate. As pointed out by Ms. Marylee Diaz Cortez, of RUCO,
26 while there may be concern over the fact that a developer owns a utility, no evidence exists in this
27 case that the relationship between Suncor and LPSCO has resulted in any abuse against ratepayers.
28 (T.R. at 219-20). This is partially because the Company has used a balanced capital structure and an

1 appropriate mix of advances and contributions, as well as debt and equity financing. Id. Even the
2 City's consultant, Mr. Cicchetti, could not testify that he found any improper behavior from LPSCO
3 or Suncor. (T.R. at 167-68).

4 The City suggests that some inequitable treatment against the City existed because LPSCO
5 treats requests for service inside their certificate area differently than those outside that area, with
6 regards to financing additions. This, in and of itself, is not evidence that an improper relationship
7 exists or that rates have been adversely affected by any relationship. There is no requirement that
8 particular financing tools be used in the same manner across the board. Developers are in a position
9 to effectively negotiate in their best interests. The utility has justified this treatment by stating that
10 they will not extend service and incorporate new areas into their certificated area unless there is no
11 adverse impact on present ratepayers. That is why they have pursued other means of financing other
12 than debt or equity, i.e. main extension agreements, to fund the additional plant needed to provide
13 public utility service outside LPSCO's certificated area. That serves to protect the existing
14 ratepayer. The Company could very well fund these types of additions with debt or equity, which
15 means that such additions could become part of rate base.

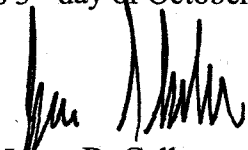
16 Finally, no evidence exists that the rates proposed in the settlement agreement are unjust and
17 unreasonable. If anything, the rates proposed by the City are only slightly to moderately lower than
18 what was proposed in the settlement agreement. (See Surebuttal Exhibit MAC-3, pp. 2-3). The
19 settlement rates give a better incentive for conservation and more accurately reflect the appropriate
20 price signals for additional water usage. Such should be very important given the drought conditions
21 throughout Arizona. The rates in the settlement agreement do not reflect any manifestation of an
22 improper relationship between Suncor and LPSCO, even if one were to exist. As stated above, not
23 even the City's own witness found any evidence that an improper relationship existed. The bottom
24 line is that the City can hardly accuse the settlement rates of being unjust and unreasonable, given
25 how close most of the City's rates are to the settlement rates. The City's proposed rates, however,
26 are based on the faulty assumption that some of the plant included in the rate base figures has excess
27 capacity. As detailed above, all of the plant included in the rate base figures in the settlement
28 agreement for both LPSCO's water and sewer divisions are used and useful. Therefore, while the

1 relationship between a developer-owned utility and the developer must always be monitored, the
2 City's arguments in this case regarding that relationship are rebuffed and do not defeat acceptance of
3 the settlement agreement.

4 **CONCLUSION.**

5 Staff believes the ultimate issue to be addressed regarding this settlement agreement is
6 whether the rates proposed are just and reasonable and whether it is in the public interest to adopt the
7 settlement agreement for this rate case. All of the arguments put forth by the City should be
8 answered with regard to this central point. All of the City's arguments fail. The rate base figures in
9 the settlement agreement, of which rates are based, reflect used and useful plant presently serving
10 customers for both the water and sewer divisions. No evidence exists of an improper relationship
11 between LPSCO and SunCor and no evidence exists that the developer utility relationship has
12 resulted in unjust rates or that the relationship is improperly influencing rates in the settlement
13 agreement. The rates proposed by the City sacrifice the principle that a utility is entitled to rate of
14 return on its fair value rate base. For all of the above reasons, the City's arguments must be rejected
15 and the rates in the settlement agreement found just and reasonable.

16 RESPECTFULLY SUBMITTED this 3rd day of October, 2002.

17
18 
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APPENDIX A

The following tables and schematic describe the plant in more detail.

ACTIVE WELLS				
WELL DATA	Town Well No.2	Town Well No.4	Town Well No.5	Town Well No.6
ADWR REG. #	55-611680	55-611678	55-611677	55-611720
Location Number	B(2-1)27 aad	B(2-1)23 dcb	B(2-1)23 dbb	B(2-1)23 dcc
Pump Horsepower	75	150	150	200
Pump Yield	640 gpm	1,200 gpm	1,425 gpm	1,425 gpm
Casing Diameter	12 inches	16 inches	16 inches	16 inches
Drilled Depth	503 ft.	685 ft.	850 ft.	650 ft.
Static Water Level	-----	190.2 ft.	193.3 ft.	188.9 ft.
Meter Size	8 inches	10 inches	12 inches	10 inches
Year Drilled	January 1961	June 1966	July 1972	1992

The following wells were inactive at the time of inspection. These wells are not included in rate base.

INACTIVE WELLS		
WELL DATA	Town Well No. 1	Town Well No. 3
ADWR Reg.	-----	-----
Location Number	B(2-1)27aca	B(2-1)26bbd
Year Drilled	July 1946	April 1946
Casing Diameter	12 inches	10 inches
Drilled Depth	402 ft.	500 ft.

MAIN BOOSTER PUMP STATION				
Booster Pump Data	BP-1	BP-2	BP-3	BP-4
Flow Rate - gpm	2,000@150'	2,000@150'	2,000@150'	3,250@149'
Horsepower	100	150	100	200
Discharge - Inches	12	12	10	12
Motor Type	Electric	Natural gas	Electric	Electric
Fixed or Variable Speed	Fixed	Fixed	Variable	Variable
Discharge Meters	1 - 10" Mag meter		1 - 10" Venturi	
Year Installed	1966	1966	1972	1992

LITCHFIELD GREENS BOOSTER PUMP STATION	
Variable Speed Booster Pump	25 horsepower

Description of Plant (Cont.)

MAINS		
Size	Material	Length (feet)
2"	PVC	842
3"	AC	1,739
4"	AC	19,100
6"	AC,CL,PVC	77,676
8"	AC,PVC	29,564
10"	AC	100
12"	AC,PVC	38,100
16"	DIP	8,600
20"	Steel Pipe	375
24"	Steel Pipe	19,174
36"	Steel Pipe	255
42"	Steel Pipe	325

Meters	
Size	Quantity
5/8" x 3/4"	83
3/4"	2,076
1"	713
1- 1/2"	78
2"	89
4"	10
10"	1

Fire Hydrants	
Type	Quantity
Standard	134

Structures	
Type	Description
Chlorine Building	Gas Chlorination with 150 lb. cylinders
Meter Shop	
Fencing	Perimeter of facilities

APPENDIX B

The following tables provide detailed information of the water utility system.

Table A. Well Data

ACTIVE TOWN WELLS					
WELL DATA	No.2	No.4	No.5	No.6	No. 1A
ADWR REG. #	55-611680	55-611678	55-611677	55-611720	55-583454
Location Number	B(2-1)27 aad	B(2-1)23 dcb	B(2-1)23 dbb	B(2-1)23 dcc	B(2-1)27 acb
Pump Horsepower	75	150	150	200	200
Pump Yield	640 gpm	1,200 gpm	1,425 gpm	1,425 gpm	1,100
Casing Diameter	12 inches	16 inches	16 inches	16 inches	20 inches
Drilled Depth	503 ft.	685 ft.	850 ft.	650 ft.	740 ft.
Static Water Level	-----	190.2 ft.	193.3 ft.	188.9 ft.	183 ft.
Meter Size	8 inches	10 inches	12 inches	10 inches	16 inches
Year Drilled	January 1961	June 1966	July 1972	1992	January 2000

* New

Well No. 1A was placed in service in July 2001. During Staff's field inspection, Staff also noted two other wells that were in service, but were not reported nor part of this current rate proceeding. These non-reported wells are as follows and are being mentioned in this report for informational purposes:

Table B. New Wells

NEW WELLS		
WELL DATA	Airline Well No. 9	Airline Well No. 5
ADWR Reg.	55-611729	55-611727
Location Number	B(2-1)12 cad	B(2-1)12 cdd
Year in service	May 2001	June 2001
Casing Diameter	20-inch	16-inch
Drilled Depth	800 ft.	800 ft.
Pump Horsepower	350	300
Pump Yield	2,000 gpm	1,500 gpm
Meter Size	16-inch	16-inch
Sand separator	Yes	Yes
Chlorination	Liquid	@ Well No. 9
Generator	300 kw	-----

Table C. Reservoir

RESERVOIR	
Quantity	Size
1 each	6.3 million gallon

Table D. Main Booster Pumps

MAIN BOOSTER PUMP STATION					
Booster Pump Data	BP-1	BP-2	BP-3	BP-4	BP-5
Flow Rate – gpm	2,000	2,000	2,000	3,250	3,250
Horsepower	100	150	100	200	200
Discharge – Inches	12	12	10	12	12
Motor Type	Electric	Natural gas	Electric	Electric	Electric
Fixed or Variable Speed	Fixed	Fixed	Variable	Variable	Variable
Discharge Meters	1 – 10" Mag meter		1 - 10 " Venturi		
Year Installed	1966	1966	1972	1992	2000

*New

Table E. Greens Booster Station

LITCHFIELD GREENS BOOSTER PUMP STATION	
Variable Speed Booster Pump	25-Hp

Table F. Water Mains

MAINS		
Size	Material	Length (feet)
2"	PVC	842
3"	AC	1,739
4"	AC	19,100
6"	AC,CL,PVC	132,497
8"	AC,PVC	39,847
10"	AC	100
12"	AC,PVC	44,350
16"	DIP	24,040
20"	Steel Pipe	375
24"	Steel Pipe	21,814
36"	Steel Pipe	255
42"	Steel Pipe	325
Total		285,284

Table G. Meters

Meters	
Size	Quantity
5/8 " x 3/4"	105
3/4"	4,208
1"	974
1- 1/2 "	90
2"	153
4"	10
10"	1
Total	5,541

Table H. Fire Hydrants

Fire Hydrants	
Type	Quantity
Standard	731

Table I. Structures

Structures	
Type	Description
Chlorine Building	Liquid Chlorination w/ on-site sodium hypochlorite generation system
Fencing	Perimeter of facilities

APPENDIX C

LPSCO Water System Additions (1996 - 2000 Red)

